

1 STATE OF IDAHO

2 DEPARTMENT OF WATER RESOURCES

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 4 :  
 5 RE: WATER ALLOCATION RULES AND :  
 6 REGULATIONS HEARINGS. :  
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11 TRANSCRIPT OF PROCEEDINGS REQUESTED BY  
 12 ATTORNEY GENERAL LAWRENCE WAsDEN OF AUDIOTAPES HELD AND  
 13 MAINTAINED BY THE DEPARTMENT OF WATER RESOURCES

14 July 17, 1986, 1:45 p.m.  
 15 before NORMAN YOUNG, HEARING OFFICER  
 16  
 17 BONNEVILLE COUNTY COURTHOUSE  
 18 IDAHO FALLS, IDAHO

23 Transcribed by  
 24 Frances J. Morris  
 25 CSR No. 696



P.O. Box 1625  
 605 West Fort Street  
 Boise, ID 83701

Voice 208 345 3704  
 Fax 208 345 3713  
 Toll free 800 424 2354  
 Web www.etucker.net  
 E-mail info@manager.net

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A P P E A R A N C E S

NO WITNESSES

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1 IDAHO FALLS, IDAHO  
 2 July 17th, 1986, 1:45 p.m.  
 3  
 4 THE HEARING OFFICER: My name is Norman  
 5 Young from the state office of the Department of  
 6 Water Resources in Boise. I have been asked by  
 7 the director, A. Kenneth Dunn, to serve as the  
 8 hearing officer in this matter.  
 9 The purpose of this hearing is to  
 10 provide an opportunity for formal testimony or  
 11 statements presented either orally or in writing  
 12 relative to the department's adopted rules and  
 13 regulations for water allocations which the notice  
 14 of intent has indicated will be repealed, adopted  
 15 anew in this process.  
 16 This hearing is required by the  
 17 provisions of the Administrative Procedures Act,  
 18 Title 67, Chapter 52, Idaho Code. It will be  
 19 conducted pursuant to the department's rules of  
 20 practice and procedure. Under those rules cross  
 21 examination of witnesses via participants or  
 22 others is not allowed, except as hearing officer I  
 23 will retain the opportunity to ask clarifying  
 24 questions on the testimony. After the hearing is  
 25 concluded, an opportunity will be provided to

1 APPEARANCES  
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 3 NO WITNESSES  
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1 discuss the questions.  
 2 These rules implement the provisions of  
 3 Chapter 2, Title 42 of the Idaho Code, in  
 4 particular Section 42-205C, which were amended  
 5 during both the 1985 and '86 sessions of the  
 6 legislature. The authority and the duty to adopt  
 7 these rules comes from Section 42-1805(8), Idaho  
 8 Code.  
 9 The brief background on how we got to  
 10 this point, the hearings were held, and public  
 11 input was taken on the rules previously with  
 12 hearings held in January of '86, the rules adopted  
 13 in April of '86. Shortly thereafter, Idaho Power  
 14 Company alleged there was a general defect in the  
 15 promulgation process and objected specifically to  
 16 Rule 5,2 which provides the criteria for  
 17 determining which applications and permits to be  
 18 processed under Section 42-203D Idaho Code will be  
 19 reviewed under the new public interest criteria of  
 20 Section 42-203C, Idaho Code.  
 21 Idaho Power Company petitioned the  
 22 department to amend Rule 5,2, and these hearings  
 23 are a response to that petition. The alleged  
 24 general defect was that statutes which were being  
 25 implemented by the rules and regulations were

1 amended by the legislature part way through the  
 2 promulgation process. The notice of intent to  
 3 renew the rule-making process announced the  
 4 director's intention to repeal the rules adopted  
 5 April 8, 1986, and adopt anew the same rules. The  
 6 notice also stated the implementation of Rule 5,2  
 7 which were readopted. The notice indicated that,  
 8 in addition to the testimony and statements  
 9 received in this hearing process, the director  
 10 would consider all of the testimony and statements  
 11 filed in the initial hearings in January.

12 Testimony is specifically asked on Rule  
 13 5,2, but it will be received and used on all of  
 14 the rules. The notice of intent of rule-making  
 15 was published on June 12th, 19th, and 26th in the  
 16 newspapers in Boise, Twin Falls, Idaho Falls, and  
 17 Coeur d'Alene. The Boise Statesman published a  
 18 correction statement on the 20th of June 1986.

19 Copies of the notice and the rules were  
 20 mailed to those asking advanced notice and to all  
 21 others requesting them. Press releases were  
 22 issued twice announcing these hearings. The  
 23 general procedure from this point on is, we will  
 24 conduct hearings. We held one in Twin Falls last  
 25 night, this one in Idaho Falls this afternoon,

1 St. Anthony this evening, and Boise on Monday.  
 2 The record will then remain open until July 31st  
 3 for written comment, July 31st, 1986. The hearing  
 4 officer will prepare a report with recommendations  
 5 to the director on the revisions to the rules  
 6 needed as a result of the public input.

7 The hope is to adopt final rules that  
 8 are presently scheduled and proposed to be adopted  
 9 on August 12th, a very short time after the close  
 10 of the statements, or the hearing record. We will  
 11 then file copies in the central office of the  
 12 department to become effective 20 days after  
 13 filing. It will be distributed through the law  
 14 libraries and to anyone to who attended the  
 15 hearings and others who have requested them.

16 Are there other matters that need to be  
 17 discussed before this hearing is open to  
 18 testimony?

19 Okay. Today is July 17th, 1986. The  
 20 time is 1:45 p.m. This hearing is being conducted  
 21 in the courtroom at Idaho Falls, Idaho. The  
 22 roster of attendance has been distributed and  
 23 signed, and no one has indicated that they wish to  
 24 present testimony.

25 Has anyone changed their mind at this

1 point and wish to make a statement for the record?  
 2 Hearing none, I will remind you that  
 3 you have the opportunity to file written comment.  
 4 You may attend later hearings that I have already  
 5 announced. And I appreciate your attendance, and  
 6 I appreciate your interest. And thank you for  
 7 coming. That concludes the record.

8 (End of proceeding)  
 9 -o0o-

REPORTER'S CERTIFICATE

1 I, Frances J. Morris, Court Reporter, a  
 2 Notary Public, do hereby certify:

3 That I am the reporter who transcribed  
 4 the proceedings in the form of digital recording  
 5 in the above-entitled action in machine shorthand  
 6 and thereafter the same was reduced into  
 7 typewriting under my direct supervision; and  
 8 That the foregoing transcript contains a  
 9 full, true, and accurate record of the proceedings  
 10 to the extent they were audible and intelligible  
 11 in the above and foregoing cause, which was heard  
 12 in various cities at Idaho Falls, Idaho.

13 IN WITNESS WHEREOF, I have hereunto set  
 14 my hand this \_\_\_\_\_ day of \_\_\_\_\_ 2008.

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 22 Frances J. Morris, Court Reporter  
 23 CSR No. 696  
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## Water Allocation Rules and Regulations Hearings 7/17/1986

<p style="text-align: center;"><b>A</b></p> <p>above-entitled 8:8  accurate 8:12  Act 3:17  action 8:8  addition 5:8  Administrative 3:17  adopt 4:6 5:5 6:7  adopted 3:12,14 4:12 5:4 6:8  advanced 5:20  afternoon 5:25  alleged 4:14,23  ALLOCATION 1:4  allocations 3:13  allowed 3:22  amend 4:22  amended 4:4 5:1  anew 3:15 5:5  announced 5:3 7:5  announcing 5:22  Anthony 6:1  applications 4:17  appreciate 7:5,6  April 4:13 5:5  asked 3:6 5:12  asking 5:20  attend 7:4  attendance 6:22 7:5  attended 6:14  ATTORNEY 1:12  audible 8:13  AUDIOTAPES 1:12  August 6:9  authority 4:6</p>	<p>conducted 3:19 6:20  consider 5:10  contains 8:11  copies 5:19 6:11  correction 5:18  COUNTY 1:17  Court 8:4,21  COURTHOUSE 1:17  courtroom 6:21  criteria 4:16,19  cross 3:20  CSR 1:24 8:22</p>	<p>3:22,24 5:9 6:3,10,17 6:20 7:2  hearings 1:5 4:10,12,22 5:11,22,24 6:15 7:4  held 1:12 4:10,12 5:24  hereunto 8:16  hope 6:7</p>	<p style="text-align: center;"><b>O</b></p> <p>O 8:1  objected 4:15  office 3:5 6:11  officer 1:15 3:4,8,22 6:4  Okay 6:19  open 6:2,17  opportunity 3:10,23,25 7:3  orally 3:11  o0o 7:9</p>	<p>remain 6:2  remind 7:2  renew 5:3  repeal 5:4  repealed 3:14  report 6:4  reporter 8:4,6,21  requested 1:11 6:15  requesting 5:21  required 3:16  Resources 1:2,13 3:6  response 4:23  result 6:6  retain 3:23  reviewed 4:19  revisions 6:5  roster 6:22  Rule 4:16,22 5:6,12  rules 1:4 3:12,19,20 4:2,7 4:11,12,25 5:4,5,14,19 6:5,7  rule-making 5:3,14</p>
<p style="text-align: center;"><b>B</b></p> <p>background 4:9  Boise 3:6 5:16,17 6:1  BONNEVILLE 1:17  brief 4:9</p>	<p style="text-align: center;"><b>D</b></p> <p>day 8:17  days 6:12  defect 4:14,24  department 1:2,13 3:5 4:22 6:12  department's 3:12,19  determining 4:17  digital 8:7  direct 8:10  director 3:7 5:9 6:5  director's 5:4  discuss 4:1  discussed 6:17  distributed 6:13,22  Dunn 3:7  duty 4:6  d'Alene 5:17</p>	<p style="text-align: center;"><b>I</b></p> <p>Idaho 1:1,17,17 3:1,1,18 4:3,7,13,18,20,21 5:16 5:25 6:21,21 8:15,15</p> <p>implement 4:2  implementation 5:6  implemented 4:25  indicated 3:14 5:7 6:23  initial 5:11  input 4:11 6:6  intelligible 8:13  intent 3:14 5:2,14  intention 5:4  interest 4:19 7:6  issued 5:22</p>	<p style="text-align: center;"><b>P</b></p> <p>P 2:1,1 8:1  part 5:1  participants 3:21  particular 4:4  permits 4:17  petition 4:23  petitioned 4:21  point 4:10 5:23 7:1  Power 4:13,21  practice 3:20  prepare 6:4  present 6:24  presented 3:11  presently 6:8  Press 5:21  previously 4:11  procedure 3:20 5:23  Procedures 3:17  proceeding 7:8  proceedings 1:11 8:7,12  process 3:15 4:15 5:2,3,9  processed 4:18  promulgation 4:15 5:2  proposed 6:8  provide 3:10  provided 3:25  provides 4:16  provisions 3:17 4:2  public 4:10,19 6:6 8:5  published 5:15,17  purpose 3:9  pursuant 3:19  p.m 1:14 3:2 6:20</p>	<p style="text-align: center;"><b>S</b></p> <p>S 2:1 8:1  scheduled 6:8  Section 4:4,7,18,20  serve 3:7  sessions 4:5  set 8:16  short 6:9  shorthand 8:8  Shortly 4:13  signed 6:23  specifically 4:15 5:12  St 6:1  state 1:1 3:5  stated 5:6  statement 5:18 7:1  statements 3:11 5:8,10 6:10  Statesman 5:17  statutes 4:24  supervision 8:10</p>
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<p style="text-align: center;"><b>F</b></p> <p>F 8:1  Falls 1:17 3:1 5:16,16,24 5:25 6:21 8:15  file 6:11 7:3  filed 5:11  filing 6:13  final 6:7  foregoing 8:11,14  form 8:7  formal 3:10  Frances 1:23 8:4,21  full 8:12</p>	<p style="text-align: center;"><b>G</b></p> <p>general 1:12 4:14,24 5:23</p>	<p style="text-align: center;"><b>K</b></p> <p>Kenneth 3:7</p> <p style="text-align: center;"><b>L</b></p> <p>law 6:13  LAWRENCE 1:12  legislature 4:6 5:1  libraries 6:14</p>	<p style="text-align: center;"><b>M</b></p> <p>machine 8:8  mailed 5:20  MAINTAINED 1:13  matter 3:8  matters 6:16  mind 6:25  Monday 6:1  Morris 1:23 8:4,21</p>	<p style="text-align: center;"><b>N</b></p> <p>N 2:1  name 3:4  need 6:16  needed 6:6  new 4:19  newspapers 5:16  night 5:25  Norman 1:15 3:4  Notary 8:5  notice 3:13 5:2,6,7,14,19 5:20</p>

Water Allocation Rules and Regulations Hearings 7/17/1986

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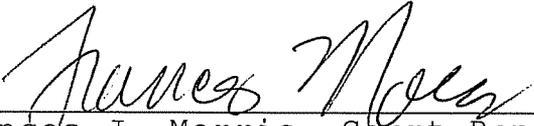
R E P O R T E R ' S C E R T I F I C A T E

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4 I, Frances J. Morris, Court Reporter, a  
5 Notary Public, do hereby certify:

6 That I am the reporter who transcribed  
7 the proceedings in the form of digital recording  
8 in the above-entitled action in machine shorthand  
9 and thereafter the same was reduced into  
10 typewriting under my direct supervision; and

11 That the foregoing transcript contains a  
12 full, true, and accurate record of the proceedings  
13 to the extent they were audible and intelligible  
14 in the above and foregoing cause, which was heard  
15 in various cities at Idaho Falls, Idaho.

16 IN WITNESS WHEREOF, I have hereunto set  
17 my hand this 8<sup>th</sup> day of October 2008.

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23 Frances J. Morris, Court Reporter  
24 CSR No. 696  
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